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09/350,467	07/09/1999	JOHN PAYNE	154143-0017	8175
20594	7590	11/17/2003	EXAMINER	
CHRISTOPHER J. ROURK AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P. P O BOX 688 DALLAS, TX 75313-0688			Caldwell, Andrew T	
		ART UNIT	PAPER NUMBER	
		2157	15	
DATE MAILED: 11/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

P26

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/350,467	PAYNE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Caldwell	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 12 December 2002.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-50 and 56-178 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-50 and 56-178 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## 1 Part III DETAILED ACTION

2 **Remarks**

3 Claims 1-178 are presented for examination.

4

5 **Specification**6 The specification is objected to under 37 CFR 1.75(d) for failing to failing  
7 to provide clear antecedent basis for the terms and phrases used in the claims.8 In particular, the specification fails to adequately link the corresponding structure,  
9 material, or acts in the specification with the particular means plus function  
10 limitations of claims 64-81 and 141-158. Per MPEP 2181, the Applicants are  
11 required to either (a) state on the record or (b) amend the specification to state  
12 the corresponding structure, material or acts to perform the recited function.13 MPEP 2181, p. 2100-219 particularly the paragraph beginning at the bottom of  
14 column 1 and ending in column 2.15 The specification is objected to under 37 CFR 1.74 for failing to provide a  
16 description of Figures 11, 12, and 15 in the detailed description of the invention.17 The following information may be helpful to the Applicants in responding to this  
18 requirement. On page 54 at line 27, the cited figure does not match its  
19 description in the text and appears to be a description of Figure 11. On page 58  
20 at line 27, the cited figure does not match its description in the text and appears  
21 to be a description of Figure 12.22 The abstract is objected to under 37 CFR 1.72(b) because it is not  
23 commensurate in scope with the claimed subject matter. The Examiner suggests

Art Unit: 2157

- 1 copying the abstract from the parent application and adding text describing the
- 2 use of the preprocessed data to access a system that is not controlled by an
- 3 operator of the central broadcast server. See MPEP 608.01(b).

4

### ***Claim Rejections - 35 USC § 103***

6 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for  
7 all obviousness rejections set forth in this Office action:

8 (a) A patent may not be obtained though the invention is not identically disclosed or described  
9 as set forth in section 102 of this title, if the differences between the subject matter sought to  
0 be patented and the prior art are such that the subject matter as a whole would have been  
1 obvious at the time the invention was made to a person having ordinary skill in the art to which  
2 said subject matter pertains. Patentability shall not be negated by the manner in which the  
3 invention was made.

5 This application currently names joint inventors. In considering  
6 patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that  
7 the subject matter of the various claims was commonly owned at the time any  
8 inventions covered therein were made absent any evidence to the contrary.

19 Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor  
20 and invention dates of each claim that was not commonly owned at the time a  
21 later invention was made in order for the examiner to consider the applicability of  
22 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35  
23 U.S.C. 103(a).

24 '958 v. Ammons and '721

25 Claims 1-3, 14-25, 29-36, 44, 49-50, 60-66, 78-84, 96-107, 111-118, 126,  
26 131-132, 137-143, 153-158, 161-178 are rejected under 35 U.S.C. 103(a) as  
27 being unpatentable over McCoy et al., U.S. Patent No. 5,790,958, in view of

1 Ammons, B., "RBDS for Your Station!"  
2 <http://www.crlsystems.com/crl/tech/rbds.htm>, Circuit Research Labs, Inc., pp. 1-  
3 13, Sep. 1995, and May, U.S. Patent No. 5,043,721. In this Office action, any  
4 apparatus claim will be discussed before its corresponding method claim, even  
5 though the method claims numerically precede the apparatus claims. Since  
6 claims 82-84, 96-107, 111-118, 126, 131-132, 137-143, and 153-158 are  
7 duplicate claims as discussed above, separate reasons for rejection will not be  
8 given.

9 **Claims 64-66 and 78-81:**

10 Regarding claim 64, the preamble will be given patentable weight since  
11 the claim body refers back to the preamble. McCoy teaches the invention  
12 substantially as claimed by disclosing a data transmission system comprising:

13 Remote computing devices (Fig. 1 elem. 20);

14 Means for transmitting preprocessed data at said central broadcast server  
15 (Fig. 1 elem. 44);

16 Means for instantaneously notifying said computing devices of receipt of  
17 said preprocessed data (Col. 2 lines 51-62).

18 McCoy does not teach a system comprising:

19 Means for transmitting data from an information source to a central  
20 broadcast server;

21 Means for preprocessing said data at said central broadcast server;

22 Wherein said remote computing devices are notified of receipt of said  
23 preprocessed data whether said computing devices are on or off.

1           Ammons on the other hand discloses a system comprising:  
2           Means for transmitting data from an information source to a central  
3           broadcast server (p. 2 FM radio station transmitter);  
4           Means for preprocessing said data at said central broadcast server (p. 2  
5           RBDS generator).

6           It would have been obvious to one of ordinary skill in the art at the time the  
7           invention was made to combine Ammon's system for preprocessing data from an  
8           information server and broadcasting the data to remote computing devices with  
9           the radio reception system of McCoy based upon McCoy's explicit teaching that  
10          the broadcast signal is encoded and decoded according to the RBDS standard  
11          (Col. 1 lines 25-39).

12          May on the other hand teaches means for notifying said computing  
13          devices wherein said remote computing devices are notified of receipt of said  
14          preprocessed data whether said computing devices are on or off (Fig. 2; Col. 3  
15          lines 61-68).

16          It would have been obvious to one of ordinary skill in the art at the time the  
17          invention was made to combine May's system for waking up the remote  
18          computing device upon the receipt of data with McCoy's remote computing  
19          device because it reduces the amount of power consumed by the remote  
20          computing.

21          Regarding claim 65, McCoy teaches means for wirelessly transmitting said  
22          preprocessed data to remote receivers (Fig. 1).

1       Regarding claim 66, McCoy teaches means for transmitting said  
2 preprocessed data using a paging network (Col. 1 lines 58-67; Col. 2 lines 50-  
3 62).

4       Regarding claim 78, McCoy teaches a system comprising alert means  
5 which when activated allows display of data (Fig. 7 elem. 306).

6       Regarding claim 79, Ammons teaches means for sending data on groups  
7 of pooled capcodes (pp. 7-9 nonpublic messages).

8       Regarding claim 80, Ammons teaches means for multiplexing data over  
9 multiple capcodes to be reassembled at said user as if data were sent over a  
10 single capcode (pp. 7-9 nonpublic messages).

11       Regarding claim 81, Ammons teaches means for assigning, transmitting,  
12 receiving, and combining (pp. 7-9 nonpublic messages).

13 **Claims 1-3, 14-25, 29-36, 44, 49-50, 60-63:**

14       Regarding claims 1-3, 14, and 61-63, they are method claims  
15 corresponding to apparatus claims 64-66 and 78-81. Since they do not teach or  
16 define above the information in the corresponding apparatus claims, they are  
17 rejected under the same basis. The claims correspond as follows: 1 with 64, 2  
18 with 65, 3 with 66, 14 with 78, 61 with 79, 62 with 80, and 63 with 81.

19       Regarding claim 14, McCoy teaches a method comprising providing alert  
20 means which when activated allows display of data (Fig. 7 elem. 306).

21       Regarding claim 15, McCoy teaches a method wherein said alert means  
22 comprises a visual alert (Fig. 7 elem. 306).

1       Regarding claim 16, McCoy teaches a method wherein said alert means  
2   comprises a audio alert (Fig. 7 elem. 306).

3       Regarding claim 17, McCoy teaches a method comprising providing a  
4   dockable user interface alert panel on a display communicating with computing  
5   device for providing alerts to said user, wherein said alert panel is dockable on  
6   top of other applications (Col. 14 line 56 to Col. 15 line 13).

7       Regarding claim 18, McCoy teaches a method comprising displaying fly-in  
8   graphics and icon buttons to alert said user that new data has been received by  
9   said computing device (Col. 14 line 56 to Col. 15 line 13).

10       Regarding claim 19, McCoy teaches a method wherein said alerts reflect  
11   type of information present at computing device (Col. 14 line 56 to Col. 15 line  
12   13).

13       Regarding claim 20, Ammons teaches deriving redundant packets for  
14   transmission to said user (p. 7).

15       Regarding claim 21, McCoy teaches parceling a data block into one  
16   incoming message, parceling said messages into k packets, and computing a  
17   CRC (Fig. 6).

18       Regarding claim 22, McCoy teaches a method wherein packets include  
19   information and parity portions (Fig. 2).

20       Regarding claim 23, McCoy teaches a method comprising performing  
21   error correction and detection on said code words after said data packets have  
22   been parceled (Cols. 10-11).

1       Regarding claim 24, McCoy teaches a method comprising assembling a  
2 data block from said code words (Cols. 10-11).

3       Regarding claim 25, McCoy teaches the steps of counting, determining,  
4 saving, discarding, and assembling (Cols. 10-12).

5       Regarding claim 29, official notice is hereby taken of the fact that  
6 differencing algorithms are well known in the art as a way of compressing data  
7 streams in wireless systems.

8       Regarding claim 30, Ammons teaches the step of processing data in  
9 accordance with feed type from said information source (pp. 2-4 data groups as  
10 feed types).

11       Regarding claim 31, Ammons teaches a method wherein said feed type  
12 comprises binary type feeds (p. 2 RBDS signal).

13       Regarding claim 32, McCoy teaches a method wherein said feed type  
14 comprises common user information type fields (Col. 2 lines 14-20).

15       Regarding claim 33, Ammons teaches a system wherein said feed type  
16 comprises feeds for modifying registry keys which control processing of data  
17 (Ammons p. 11 new uses for groups 5, 6, and 7).

18       Regarding claim 34, McCoy teaches a method further comprising the step  
19 of using tags to differentiate types of information (Col. 4 lines 29-50).

20       Regarding claim 35, McCoy teaches a method further comprising the step  
21 of instantaneously alerting said user to personal alerts through the use of sound,  
22 graphics, bit maps or video, wherein said user can instantaneously access  
23 information (Col. 14 line 56 to Col. 15 line 13).

1       Regarding claim 36, McCoy teaches a method further comprising the step  
2       of encoding said data with information relating to message parameters for  
3       filtering (Col. 14 lines 56-67 paging code as filtering parameter).

4       Regarding claim 44, Ammons teaches the step of modifying said  
5       preprocessed data instantaneously and wirelessly (p. 2 adding RBDS subcarrier  
6       to FM stereo program).

7       Regarding claim 49, McCoy teaches a method wherein said information  
8       source may be an Internet access provider providing data feeds (Col. 2 lines 1-  
9       13; Col. 13 line 66 to Col. 14 line 4).

10       Regarding claim 50, McCoy teaches a method wherein said information  
11       source may be an on-line service provider providing data feeds (Col. 2 lines 1-13;  
12       Col. 13 line 66 to Col. 14 line 4).

13       Regarding claim 60, McCoy teaches a method comprising transmitting  
14       said preprocessed data utilizing a FM subcarrier, digital, analog, cellular, GSM or  
15       PCS carrier (Col. 2 lines 24-39).

16       **'958 v. Ammons and '721 and '338**

17       Claims 4-6, 67-69, 85-87, and 144-146 are rejected under 35  
18       U.S.C. 103(a) as being unpatentable over McCoy in view of Ammons and May  
19       and Schwob, U.S. Patent No. 5,732,338. Since claims 85-87 and 144-146 are  
20       duplicate claims as discussed above, separate reasons for rejection will not be  
21       given.

22       **Claims 67-69:**

1       Regarding claim 67, the combination of McCoy in view of Ammons and  
2    May teaches the invention substantially as claimed. See section 14 for the  
3    rejection of parent claim 65. The combination of McCoy in view of Ammons and  
4    May does not teach the additional limitation of claim 67. Schwob on the other  
5    hand discloses a system wherein preprocessed data is transmitted utilizing a  
6    vertical blanking interval (Col. 3 lines 8-13). It would have been obvious to one of  
7    ordinary skill in the art at the time the invention was made to modify the  
8    combination of McCoy in view of Ammons and May by substituting Schwob's VBI  
9    transmission scheme for the FM subcarrier transmission scheme of the  
10    combination. This modification would have been obvious given Schwob's  
11    teaching that FM subcarrier and VBI transmission schemes are alternate ways of  
12    broadcasting data (Cols. 2-3).

13       Regarding claim 68, Schwob teaches means for transmitting said  
14    preprocessed data using a satellite system (Col. 2 lines 56-62).

15       Regarding claim 69, Schwob teaches means for transmitting said  
16    preprocessed data to remote receivers by wired transmission (Col. 2 lines 56-  
17    62).

18   **Claims 4-6:**

19       Regarding claims 4-6, they are method claims corresponding to apparatus  
20    claims 67-69, respectively. Since they do not teach or define above the  
21    information in the corresponding apparatus claims, they are rejected under the  
22    same basis.

23    **'958 v. Ammons and '721 and '415 and '652**

1       Claims 7-13, 59, 70-77, 82-84, 88-107, 111-118, 126, 131-133, 136-143,  
2   136-143, 147-158, and 161-178 are rejected under 35 U.S.C. 103(a) as being  
3   unpatentable over McCoy in view of Ammons and May and Rossman, U.S.  
4   Patent No. 5,809,415, and Jacobson, U.S. Patent No. 5,442,652. Since claims  
5   88-95, 136, and 147-154 are duplicate claims as discussed above, separate  
6   reasons for rejection will not be given.

7   **Claims 70-77:**

8       Regarding claim 70, the combination of McCoy in view of Ammons and  
9   Lee teaches the invention substantially as claimed. See section 8 for the  
10  rejection of parent claim 64.

11       The combination of McCoy in view of Ammons and Lee does not teach the  
12  additional limitation of claim 70.

13       Rossman on the other hand discloses a system further comprising means  
14  for attaching to said preprocessed data an Internet address location of said  
15  preprocessed data (Col. 6).

16       It would have been obvious to one of ordinary skill in the art at the time the  
17  invention was made to combine Rossman's system for attaching a resource  
18  locator to a paging message with the paging system of the combination of McCoy  
19  in view of Ammons and May. This combination would have been obvious  
20  because a person of ordinary skill in the art would have recognized that  
21  downloading a message including a locator for a much larger object and  
22  subsequently retrieving the larger object through a higher bandwidth channel  
23  conserves the limited bandwidth of the FM subcarrier channel.

1        Jacobson on the other hand discloses means for providing said user with  
2        an automatic connection back to said information source for obtaining further  
3        information related to said preprocessed data (Col. 1 lines 23-38 response via  
4        dedicated telephone line). It would have been obvious to one of ordinary skill in  
5        the art at the time the invention was made to combine the Jacobson's return  
6        communication path via telephone line with the paging system of the combination  
7        of McCoy in view of Ammons and May. This combination would have been  
8        obvious because a person of ordinary skill in the art would have recognized that  
9        downloading a message including a locator for a much larger object and  
10       subsequently retrieving the larger object through a higher bandwidth channel  
11       conserves the limited bandwidth of the FM subcarrier channel.

12       Regarding claim 71, Rossman teaches a system wherein said Internet  
13       address location is a URL (Cols. 23 & 38).

14       Regarding claim 72, Rossman teaches means for providing an automatic  
15       connection back to said information source through a user activating a single  
16       function on said computing device (Cols. 12-13).

17       Regarding claim 73, Rossman teaches a system wherein said single  
18       function comprises a single click on said computing device (Cols. 12-13).

19       Regarding claim 74, Jacobson teaches a system wherein said connection  
20       back to said information source is an automated wired connection (Col. 1 lines  
21       23-38 response via dedicated telephone line).

1       Regarding claim 75, Rossman teaches a system wherein said connection  
2 back to said information source is an automated wireless connection (Cols. 11-  
3 14).

4       Regarding claim 76, Rossman teaches means for determining, attaching,  
5 transmitting, extracting, and displaying (Cols. 11-14).

6       Regarding claim 77, Rossman teaches means for launching an Internet  
7 browser and passing said Internet address location to said browser for automatic  
8 connection back to said information source (Cols. 11-14).

9 **Claims 7-13 and 58-59:**

10       Regarding claims 7-13, they are method claims corresponding to  
11 apparatus claims 70-77. Since they do not teach or define above the information  
12 in the corresponding apparatus claims, they are rejected under the same basis.  
13 The claims correspond as follows: 7 with 70, 8 with 71, 9 with 72, second claim 9  
14 with 73, 10 with 74, 11 with 75, 12 with 76, 13 with 77.

15       Regarding claim 59, the combination of McCoy in view of Ammons and  
16 Lee teaches the invention substantially as claimed. See section 8 for the  
17 rejection of parent claim 1. The combination of McCoy in view of Ammons and  
18 Lee does not teach the additional limitation of claim 58. Rossman on the other  
19 hand discloses a method further comprising attaching to said preprocessed data  
20 an Internet address location of said preprocessed data for providing to said user  
21 a message that causes a process or transaction on said computing device to  
22 occur (Cols. 11-14). It would have been obvious to one of ordinary skill in the art  
23 at the time the invention was made to combine Rossman's system for attaching a

1 resource locator to preprocessed data with the system of the combination of  
2 McCoy in view of Ammons and May for the reasons given in the rejection of  
3 claim 70.

4 Regarding claim 59, Rossman teaches a system wherein said Internet  
5 address is a proprietary on-line addressing scheme (Cols. 19-20 network  
6 translator).

7 **Claims 82-84, 88-107, 111-118, 126, 131-133, 136-143, 136-143, 147-158:**

8 Regarding claim 82, it is an method claim that generally corresponds to  
9 method claim 7 above except for the fact that it does not specifically claim a  
10 system wherein the computing devices use preprocessed data containing a URL  
11 to access a system. Claim 82 claims this feature more broadly by requiring said  
12 computing devices to use said preprocessed data to access a system. Claim 82  
13 is silent as to the exact mechanism used to access the system. However, since  
14 the combination as applied to claim 7 also falls within the scope of claim 82, the  
15 remarks given with respect to claim 7 also apply to claim 82. Claim 82 also  
16 contains the limitation that the system accessed using the preprocessed data not  
17 be controlled by an operator of the central broadcasting server. Rossman  
18 teaches this feature by showing that the servers being accessed can be on a  
19 corporate WAN, a corporate LAN, or the Internet (col. 4 lines 34-37 and col. 8  
20 lines 37-59). Rossman makes clear that the server computer can be *any*  
21 computer on a computer network having an interface to the data capable cellular  
22 telephone network (col. 8 lines 37-45). A person of ordinary skill in the art would  
23 reasonably infer that the word “any” includes servers that are not controlled by

1 the operator of the central broadcasting server based on logical reasoning.  
2 Official notice is hereby taken of the fact that no single organization or individual  
3 controls all servers on the Internet. When this fact is considered in view of  
4 Rossman's statement, a person would reasonably infer that if Rossman's system  
5 teaches access to any server, Rossman must also teach the accessing of a  
6 server not controlled by an operator of the central broadcasting server.

7 Regarding claims 83-84, 88-107, 111-118, 126, 131-133, 136-140, they  
8 introduce additional limitations that are identical to one of the claims discussed  
9 above that depend on claim 1. Since the reasons for rejection were given above,  
10 they will not be repeated here.

11 Regarding claim 141, it is an apparatus claim corresponding to method  
12 claim 82. Since it does not teach or define above the information in the  
13 corresponding method claim, it is rejected under the same basis.

14 Regarding claims 142-143 and 147-158, they introduce additional  
15 limitations that are identical to one of the claims discussed above that depend on  
16 claim 64. Since the reasons for rejection were given above, they will not be  
17 repeated here.

18 **Claims 161-178:**

19 Regarding claims 161-178, they are broader method claims addressed to  
20 essentially the same subject matter as the claims discussed above and are  
21 rejected for under the same basis.

22 **'958 v. Ammons and '721 and Beam**

1       Claims 37-43, 45-48, and 56-57 are rejected under 35 U.S.C. 103(a) as  
2    being unpatentable over McCoy in view of Ammons and May and Beam, M., "A  
3    Summary of Broadcasting Technologies and Potential Applications in Today's  
4    Market," [http://www.dungeon.com/~start/rds\\_0030.html](http://www.dungeon.com/~start/rds_0030.html), pp. 1-8, 1994.

5   **Claims 37-48:**

6       Regarding claim 37, the combination of McCoy in view of Ammons and  
7    May teaches the invention substantially as claimed. See the rejection of claim 1.  
8    The combination does not teach the additional limitations of claim 37.

9       Beam on the other hand discloses a method further comprising the steps  
10    of:

11       Monitoring said transmissions using multiple viewers (p. 6);  
12       Filtering said transmitted preprocessed data (p. 6);  
13       Post processing said preprocessed data (p. 6);  
14       Notifying said user instantaneously of receipt of filtered postprocessed  
15    data (p. 6).

16       It would have been obvious to one of ordinary skill in the art at the time the  
17    invention was made to combine Beam's method for delivering multiple services to  
18    a personal computer using a broadcast network with the data broadcast system  
19    of the combination of McCoy in view of Ammons and May. This combination  
20    would have been obvious of McCoy's explicit teaching to configure the radio data  
21    reception system to "accommodate a user and access only desired information"  
22    (Col. 14 lines 41-44).

1       Regarding claim 38, Beam teaches a method comprising filtering said  
2 transmitted preprocessed data in accordance with preferences set by said user  
3 (p. 6).

4       Regarding claim 39, Beam teaches a method comprising setting said  
5 preferences with respect to sound, video, and animation (p. 6).

6       Regarding claim 40, Beam teaches a method comprising filtering said  
7 preprocessed data in accordance with virtual addresses (p. 6).

8       Regarding claim 41, Beam teaches a method comprising filtering said  
9 preprocessed data in accordance with physical addresses (p. 6).

10       Regarding claim 42, Beam teaches the step of controlling said viewers  
11 from said central broadcast server (p. 6).

12       Regarding claim 43, Beam teaches the step of activating said  
13 preprocessed data at a scheduled time (p. 5).

14       Regarding claim 45, Beam teaches the step of activating services  
15 wirelessly through activation codes which enable or disable services (p. 6).

16       Regarding claim 46, Beam teaches the step of adding viewers from said  
17 central broadcast server (p. 6).

18       Regarding claim 47, Beam teaches the step of removing viewers from said  
19 central processing server (p. 6).

20       Regarding claim 48, McCoy teaches the step of recombining, decoding  
21 and decompressing said preprocessed data (Cols. 10-12).

22       Regarding claim 56, Beam teaches the step of displaying contextual  
23 graphics on said computing device to show data in a predefined format (p. 6).

1       Regarding claim 57, Beam teaches the step of claim 57 wherein said  
2 predefined format is a scoreboard (p. 6).

3       **'958 v. Ammons and '721 and '415 and '652 and '338**

4       Claims 4-6, 67-69, 85-87, and 144-146 are rejected under 35  
5 U.S.C. 103(a) as being unpatentable over McCoy in view of Ammons and May  
6 and Schwob, U.S. Patent No. 5,732,338. Since claims 85-87, and 144-146  
7 introduce limitations that are identical to claims 4-6 and 67-69, the reasons for  
8 rejection and the reasons for the combination are given above with respect to  
9 claims 4-6 and 67-69 and will not be repeated here.

10      **'958 v. Ammons and '721 and '415 and '652 and '302**

11       Claims 108-110 are rejected under 35 U.S.C. 103(a) as being  
12 unpatentable over McCoy in view of Ammons and May and Rossman and  
13 Jacobson and further in view of Geiger, U.S. Patent No. 5,701,302. Since claims  
14 108-110 introduce limitations that are identical to claims 26-28, the reasons for  
15 rejection and the reasons for the combination are given above with respect to  
16 claims 26-28 and will not be repeated here.

17      **'958 v. Ammons and '721 and '415 and '652 and Beam**

18       Claims 119-125, 127-130, and 133-134 are rejected under 35  
19 U.S.C. 103(a) as being unpatentable over McCoy in view of Ammons and May  
20 and Rossman and Jacobson and further in view of Beam, M., "A Summary of  
21 Broadcasting Technologies and Potential Applications in Today's Market,"  
22 [http://www.dungeon.com/~start/rds\\_0030.html](http://www.dungeon.com/~start/rds_0030.html), pp. 1-8, 1994. Since claims 119-  
23 125, 127-130, and 133-134 introduce limitations that are identical to claims 37-

1 43, 45-48, and 56-57, the reasons for rejection and the reasons for the  
2 combination are given above with respect to claims 37-43, 45-48, and 56-57 and  
3 will not be repeated here.

4

5

6 **Response to Arguments**

7 Applicant's arguments filed on December 12, 2002 (paper no. 9) have  
8 been fully considered but they are not persuasive.

9 As to the Applicants' remarks filed on December 12, 2002 (paper no. 9)  
10 regarding the Examiner's objection to the information disclosure statement, they  
11 have been considered and the Form 1449 accompanying the information  
12 disclosure statement has been remailed with this Office action with all references  
13 initialed. The Examiner has considered all of the *legible* portions of the Motorola  
14 reference dated July 24, 1995 (second non-patent reference on sheet 2/7). The  
15 Examiner's decision to consider the IDS in this manner has to be reviewed within  
16 the context of the prosecution history of the parent application. In the Information  
17 Disclosure Statement filed on July 9, 1999 (paper no. 7) in the parent application,  
18 the Applicants state that a copy of the reference at issue was submitted to the  
19 Office but was never matched to the file. Whether the copy the Applicants  
20 submitted was actually legible will never be known. Assuming it was, the  
21 Applicants should have reasonably foreseen that an organization that receives as  
22 much paperwork as the PTO might, on rare occasions, lose papers. The  
23 Applicants should have at least kept a legible copy for their own file. Under these

1       circumstances, where both sides share some degree of responsibility for the lack  
2       of a legible copy, the Examiner fails to see how the Applicants can expect  
3       anything other than the legible portions of the Motorola reference to be. So with  
4       this statement explaining the degree of consideration given the reference, the  
5       Examiner has remailed the IDS having indicated that the Motorola reference at  
6       issue has been considered to the degree indicated above.

7           As to the Applicants' arguments filed on December 12, 2002 (paper no. 9)  
8       regarding the objection to the specification for failing to provide clear antecedent  
9       basis for the subject matter of means plus function claims (64-81 and 141-158),  
10      the remarks have been considered. Per MPEP 2181, the objection has been  
11      rephrased to require the Applicants to either state on the record the  
12      corresponding structure or to amend the specification. The Applicant can choose  
13      which alternative is most appropriate. As to the argument that the Examiner  
14      interpret the means plus function limitation consistently with *Serrano v. Tular*  
15      Corp., 111 F.3d 1578, 1583 (Fed. Cir. 1997), the Examiner believes that his  
16      interpretation is consistent. The Applicant is merely being required to comply  
17      with the duty to link or associate structure to the function that is the quid pro quo  
18      for the convenience of employing 35 U.S.C 112, sixth paragraph. *In re*  
19      *Wolfensperger*, 302 F.2d at 955, 133 USPQ at 542.

20           The need to clearly link structure with a particular function is best  
21      considered in view of the Applicants' response. On pages 15-16, the Applicants  
22      argue that the structure disclosed in May does not teach means for notifying said  
23      computing devices wherein said remote computing devices are notified of said

1 preprocessed data whether said computing devices are on or off. The Applicants  
2 point to the structure of Figure 11 and say it is a separate interface system that  
3 does not require the remote computing device (e.g. Fig. 1 elem. 14) to be turned  
4 on. In support, the Applicants appear to rely on the brief description of the  
5 drawings, which describes Figure 11 as a user *remote* interface for controlling  
6 the computer interface (p. 7 lines 29-31). This interpretation is not consistent  
7 with the remainder of the specification. The specification describes the user  
8 receiver (Fig. 1 elem. 32) as a two-part device including an ISA board inside the  
9 user computer and an external wireless receiver (p. 38 lines 15-30). This  
10 separate receiver is described as having an indicator such as a flashing LED.  
11 The external wireless receiver's user interface is therefore very minimal. The  
12 external receiver and its corresponding ISA interface board are controlled by the  
13 message server software (Fig. 1 elem. 18 and Fig. 10) running on the user  
14 computer. The specification shows that the alert panel of Figure 11 only receives  
15 messages from the underlying wireless receiver hardware via the VxD (Fig. 1  
16 elem. 44). The VxD is described as a Windows 95 driver or equivalent (p. 41 line  
17 30 to p. 42 line 1). Given this disclosure, one of ordinary skill in the art would  
18 reasonably conclude that the alert panel of Figure 11 is software running on the  
19 user/personal computer. The Examiner fails to see any teaching in the  
20 specification of the alert panel of Figure 11 somehow operating on external  
21 wireless receiver or any other external system. A person of ordinary skill in the  
22 art would not reasonably infer that Windows 95 software using features of the  
23 Windows graphical user interface features and receiving data from a Windows

1 device driver would also operate on a the external wireless device having a very  
2 simplistic user interface (i.e., a flashing LED or equivalent). The external  
3 wireless device would not be capable of running Windows 95 or an equivalent  
4 operating system. The particular structure associated with the function by the  
5 Applicants (i.e., the alert panel of Fig. 11) is therefore incapable of performing the  
6 particular function. Windows software cannot operate if the computer on which it  
7 runs is turned off. Based on this discussion, the Examiner concludes that the  
8 objection to the specification is reasonable. After all, if the Applicants, who know  
9 their invention best, have difficulty in associating structure with function, the  
10 public would as well.

11 As to the prior art rejections, the arguments filed on December 12, 2002  
12 (paper no. 9) have been fully considered but are not deemed persuasive. The  
13 Applicants argue that the prior art of record does not teach or suggest means for  
14 notifying said computing devices wherein said remote computing devices are  
15 notified of receipt of said preprocessed data whether said computing devices are  
16 on or off. The Applicants argue that May requires a device to wake up a turned  
17 off portable computing device before notifying the woken up portable computing  
18 device of the pager signal/preprocessed data. The Examiner fails to see why this  
19 structure does not perform the function at issue. If the computer is off, May's  
20 system wakes it up and then provides the message. If the computer is on, May's  
21 system just provides the message without waking the computer up. Whether the  
22 computer is on or off, the computer of May is notified of the receipt of  
23 preprocessed data.

Art Unit: 2157

1

## **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Caldwell, whose telephone number is (703) 306-3036. The examiner can normally be reached on M-F from 9:00 a.m. to 5:30 p.m. EST.

If attempts to reach the examiner by phone fail, the examiner's supervisor, Ario Etienne, can be reached at (703) 308-7562. Additionally, the fax numbers for Group 2100 are as follows:

Fax Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-9600.

Andrew Geduldig

Andrew Caldwell

703-306-3036

November 11, 2003

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